THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18761 of 2006

Dated:12.03.2007

Between:

Vemuri Prabhudas.

…PETITIONER

AND

The Assistant Commissioner, Endowments Department,
Guntur, and another.

…RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18761 of 2006

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the respondents, namely, the Assistant Commissioner, Endowments Department, and the Executive Officer, Sri Someswara Swamy Temple, Pidaparru Village, Kollipara Mandal, Guntur District, in proceeding to auction the leasehold rights of land admeasuring Acs.2.00 in survey No.35 (hereafter called, the subject land) belonging to second respondent temple as illegal and arbitrary.

It is the case of the petitioner that he is a cultivating tenant in respect of the subject land and is paying rents regularly. First respondent issued notice on 17.02.2005 and conducted enquiry. The petitioner allegedly obtained a certificate from the panchyat secretary stating that he has no other land and is a cultivating tenant. In spite of the same, on 20.08.2006, second respondent temple issued a public notice proposing to auction the leasehold rights of the subject land, aggrieved by which instant writ petition is filed.

This Court, while ordering notice before admission on 11.09.2006, granted stay of auction of leasehold rights. After receiving notice, first respondent filed a counter-affidavit revealing the factual position as under.

Land admeasuring Acs.2.00 in survey No.35 belonging to second respondent temple was leased out to one Vemuri Devadasu in

1979 on a maktha of 28 bags of paddy per annum under a registered lease deed dated 12.12.1979 for a period of six years from 01.06.1979 to 30.04.1985. However, he continued as tenant till 1998-1999 on an enhanced maktha of 30 bags of paddy per annum. However during 1999-2000, the petitioner occupied the land and continued to pay 30 bags of paddy per annum. After coming into force of Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 (the Act, for brevity), the petitioner applied for a declaration that he is a landless poor person under Rule 3 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Lease of Agricultural Lands Rules, 2003 (the Rules, for brevity). He also produced a certificate dated 15.05.2003 from the Mandal Revenue Officer, Kollipara, to the effect that he is having an extent of Ac.1.01. After considering the matter, first respondent by proceedings dated 22.03.2005 rejected his claim as landless poor person. After receiving a copy thereof, the petitioner preferred an appeal before the Regional Joint Commissioner, who dismissed the same on 29.07.2006. Thereafter it was proposed to conduct auction. But the petitioner and his followers created trouble and prevented the authorities from conducting auction. The petitioner is not a statutory tenant and his claim as landless poor person has already been rejected.

The counter-affidavit is filed on 13.10.2006. A copy thereof was served on the learned counsel for the petitioner on 09.11.2006. In spite of the same, no reply-affidavit is filed. This only shows that none of the allegations made in the counter-affidavit is denied by the petitioner. Be that as it is, when the petitioner approached the competent authority as well as the appellate authority under the Rules and was unsuccessful to get a declaration that he is landless poor person for the purpose of Section 82(2) of the Act, curiously he withheld the information and suppressing the facts filed instant writ petition. On this ground alone, the writ petition is liable to be dismissed. Secondly when the petitioner is not landless poor person, his lease, even if such lease is there, stands cancelled under Section 82(1) of the Act and he cannot said to have any right that can be enforced under Article 226 of the Constitution of India.

This writ petition is misconceived and the same is accordingly dismissed. No costs.

(V.V.S.RAO, J)

12th March, 2007
ghn